

JOURNAL OF THE HOUSE.

Monday, February 9, 2004.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mrs. Walrath of Stow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

Holy Spirit Lord, we depend upon You and Your assistance as we take up, judge carefully and struggle conscientiously to resolve current legislative, cultural and public policy issues. We believe that Your guidance empowers us to make impartial and morally right decisions which are in accord with Your ways and precepts and promote the common good. Teach us to be reasonable, fair and open to the views of others, but fully committed to our own basic human, spiritual and religious values. Inspire us to be creative, sensitive and caring leaders who are concerned with the present and plan for the future of our children. May our own communities be stable, safe and utilize prudently our human and spiritual resources which are Your gifts to us.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of
allegiance.

At the request of the Chair (Mrs. Walrath), the members, guests and employees joined with her in reciting the pledge of allegiance to the flag.

Message from the Governor — Veto.

Electronic
notarization.

A message from His Excellency the Governor returning with his objections thereto in writing the engrossed Bill relative to the notarization of documents, including electronic notarization [see House, No. 4217, changed and amended] (for message, see House, No. 4503) was filed in the Office of the Clerk on Thursday, February 5.

The message was read; and, under House Rule 12, placed in the Orders of the Day for the next session, the question being on passing the bill, notwithstanding the said objections.

Resolutions.

Paul V.
Walsh.

Resolutions (filed with the Clerk by Mr. Walsh of Boston) congratulating Paul V. Walsh on the occasion of his retirement, were referred, under Rule 85, to the committee on Rules.

Mr. DiMasi of Boston, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Rushing of Boston, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Communications.

The following communications were read for the information of the House:

Communications

From the Commissioner of Probation (under the provisions of Section 5 of Chapter 211F of the General Laws) submitting a report on the Office of Community Corrections; and

Community
Corrections.

From Plainridge Racecourse (under Section 2 of Chapter 128C of the General Laws) submitting copies of contracts for the simulating of dog races;

Plainridge
Racecourse.

Severally placed on file.

Annual and Special Reports.

The annual report of the Division of Insurance (under the provisions of Section 17 of Chapter 21E of the General Laws) on the availability of insurance for response action contractors involved in actions pertaining to the release or threatened release of oil or hazardous material;

Response
action
contractors,
insurance.

A semi-annual report of the Insurance Fraud Bureau (under the provisions of Section 99(k) of Chapter 398 of the Acts of 1991) on the disposition of matters referred to said bureau; and

Insurance
Fraud
Bureau.

Reports

Of the Commissioner of the Department of Transitional Assistance (under the provisions of items 4408-1000, 4403-2000 and 4405-2000 contained in Section 2 of Chapter 26 of the Acts of 2003) that available appropriations for the EAEDC, TAFDC and SSI programs will be insufficient to meet projected expenses; and

Transitional
Assistance.

Of the MassHighway Department (under the provisions of items 6010-0001 and 6010-1000 contained in Section 2 of Chapter 184 of the Acts of 2002) for the fiscal year 2004 (as of December 31, 2003);

Bond-funded
expenditures.

Severally were placed on file.

Petition.

Mr. Nangle of Lowell presented a petition (subject to Joint Rule 12) of David M. Nangle and Steven C. Panagiotakos that the Commissioner of Probation be directed to establish a global tracking system for Level 3 sex offenders; and the same was referred, under Rule 24, to the committee on Rules.

Level 3
sex
offenders,
tracking
system.

Papers from the Senate.

A Bill requiring children under 12 to wear ski helmets (Senate, No. 1376, amended by striking out all after the enacting clause and inserting in place thereof the following:

Ski
helmets.

“SECTION 1. Section 71N of chapter 143 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after clause (4) the following 3 clauses:—

(4A) conspicuously place at a ski area's point of purchase for lift tickets a sign measuring not less than 1 foot by 1 foot containing the following notice: ‘A HELMET — IT’S A SMART IDEA. FOR EDUCATIONAL INFORMATION ON HELMETS, INQUIRE AT TICKET OFFICE.’

Ski
helmets.

(4B) make available to skiers, and school ski outings, written educational information on ski helmets;

(4C) keep on record and make available for annual inspection by the executive office of public safety, documentation of the steps taken by ski area operators to comply with clauses (4A) and (4B);

SECTION 2. The second paragraph of section 71O of said chapter 143, as so appearing, is hereby amended by inserting after the fourth sentence the following 2 sentences:— Skiers shall educate themselves on ski helmet use including, but not limited to, by reviewing any information provided by the ski area, and shall make informed choices on the use of ski helmets for themselves and their children. Skiers shall comply with all posted information and other warnings.

SECTION 3. Ski area operators shall comply with clause (4C) of section 71N of chapter 143 of the General Laws on and after April 15, 2004.”; by inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to promote ski safety, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.”; and by striking out the title and inserting in place thereof the following title: “An Act promoting ski safety.”) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Bills

Medication
errors,
reporting.

Requiring the reporting of medication errors (Senate, No. 599, amended in line 6 by inserting after the word “registrant” the word “licensee”, in line 7 by striking out the word “reregister” and inserting in place thereof the word “register”, in lines 11, 15 and 17 by inserting after the word “registrant”, each time it appears, the word: “, licensee”, and in line 23 by striking out the words “action of contract, or any other” and inserting in place thereof the word “an”; and by adding the following section:

“SECTION 2. This act shall take effect on July 1, 2004.”) (on a petition);

Relative to the compensation and expenses of members of the Board of Registration in Medicine (Senate, No. 634) (on a petition);

Requiring a study of testing options for taking the Massachusetts Comprehensive Assessment System exam (Senate, No. 1994, amended in line 2 by inserting after the word “effects” the words “and feasibility”) (on a petition);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

Bills

Medications,
administration.

Relative to the safe administration of medications and legible prescriptions (Senate, No. 621, amended in section 1, in lines 1, 2 and 3, by striking out the words “executive office of health and human services, in conjunction with the department of public health and the board of registration in pharmacy” and inserting in place thereof the words “Betsy Lehman center for patient safety and medical error

reduction”, in line 30 by inserting after the word “Society” the words “; the Massachusetts Dental Society”, in line 36 by inserting after the word “commonwealth” the words “; each of the dental schools located in the commonwealth” and in line 37 by inserting after the word “commonwealth.” the following sentence: “The task force shall complete the development of its recommendations not later than December 15, 2004.”; and in section 2, in line 1, by striking out, the words “task force” and inserting in place thereof the words: “Betsy Lehman center”, in line 4, by inserting after the word “representatives” the words “, the house and senate chairs of the joint committee on health care and the chairs of the house and senate committees on ways and means”, and in line 4 by striking out the date “June 30” and inserting in place thereof the date “December 31”) (on a petition);

Providing for performance standards for physicians (Senate, No. 2048) (on Senate, No. 631);

Physicians,
standards.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33B, to the committee on Science and Technology.

Reports of Committees.

Mr. Rogers of Norwood, for the same committee, on a message from His Excellency the Governor (for message, see House, No. 4365), returning with His disapproval of certain items and sections and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), reported, in part, that section 110 stand (as passed by the General Court):

Supplemental
appropriations,
disapproval.

“SECTION 110. Section 703 of said chapter 26 is hereby amended by striking out the words ‘the effective date of this act’ and inserting in place thereof the following words:— July 1, 2004.”.

[The Governor had vetoed said section.]

Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House, the question being on whether said section stand as passed by the General Court.

By Mr. Cabral of New Bedford, for the committee on Human Services and Elderly Affairs, on Senate, Nos. 746, 754, 759, 762, 765, 770, 772, 773, 781, 785, 786, 787, 788, 794, 796, 797, 804, 807, 811, 812 and 829 and House, Nos. 38, 155, 161, 167, 363, 367, 369, 370, 371, 559, 713, 720, 721, 722, 723, 913, 1112, 1113, 1117, 1303, 1514, 1870, 1874, 2066, 2067, 2248, 2250, 2443, 2444, 2610, 2615, 2616, 2619, 3176, 3529, 3533, 3663, 3665, 3794, 3795 and 3796, an Order relative to authorizing the committee on Human Services and Elderly Affairs to make an investigation and study of certain Senate and House documents concerning children, the disabled and elderly persons of the Commonwealth (House, No. 4501). Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Human
Services.

Subsequently Mr. Scaccia of Boston, for said committees, reported, asking to be discharged from further consideration of the order; and recommending that the same be referred to the House committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted.

Energy
efficiency.

By Mr. Binienda of Worcester, for the committee on Energy, on a petition, a Bill establishing a minimum energy efficiency standard for certain products (House, No. 4363).

Timeshare
advertising.

By Mr. Honan of Boston, for the committee on Housing and Urban Development, on a petition, a Bill regulating advertisements and solicitations for time-shares (House, No. 358).

Mentally
retarded.

By Mr. Cabral of New Bedford, for the committee on Human Services and Elderly Affairs, on a petition, a Bill establishing an independent office of quality assurance for mentally retarded persons (House, No. 160).

ri

By the same member, for the same committee, on a petition, a Bill relative to services for older persons who are mentally retarded (House, No. 163).

Health
care.

By the same member, for the same committee, on a petition, a Bill relative to Division of Administrative Law appeals (House, No. 364).

Domestic
violence.

By the same member, for the same committee, on a petition, a Bill relative to the protection of children in cases of domestic violence (House, No. 715).

Criminal
records.

By the same member, for the same committee, on a petition, a Bill to require national CORI checks (House, No. 1304).

Child
development.

By the same member, for the same committee, on a petition, a Bill to promote the healthy development of children and youth (House, No. 1511).

Disabled,
information.

By the same member, for the same committee, on a petition, a Bill relative to the disclosure of information held by the Disabled Persons Protection Commission pursuant to General Laws Chapter 19C (House, No. 2069).

Human
services.

By the same member, for the same committee, on a petition, a Bill relative to an assessment of case load rates in the Executive Office of Health and Human Services (House, No. 2070).

Military,
sexual
harassment.

By the same member, for the same committee, on a petition, a Bill to develop an office to prevent sexual harassment against members of the armed forces (House, No. 2249).

Veteran,
definition.

By the same member, for the same committee, on Senate, No. 780 and House, Nos. 2251 and 2984, a Bill amending the definition of veteran under Chapter 115 (House, No. 2251).

Armed
forces,
Bosnia.

By the same member, for the same committee, on House, Nos. 2252 and 2618, a Bill providing a bonus for armed forces serving in Bosnia or other conflicts or peacekeeping missions (House, No. 2252).

Family
ombudsman.

By the same member, for the same committee, on a petition, a Bill establishing an office of the family and children's ombudsman (House, No. 2614).

Juvenile
offenders.

By the same member, for the same committee, on a petition, a Bill relative to the health care needs of adolescents in the juvenile justice systems of the Commonwealth (House, No. 2979).

By the same member, for the same committee, on a petition, a Bill regarding the definition of "disabled person" as used by the Disabled Persons Protection Commission (House, No. 3175).

Disabled
persons.

By the same member, for the same committee, on House, Nos. 916 and 918, a Bill relative to assisted living regulation (House, No. 4502).

Assisted
living.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on a petition, a Bill relative to private attorneys providing public counsel services (House, No. 4321).

Public
counsel
services.

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the following matters be scheduled for consideration by the House:

Senate bills

Relative to the revaluation of real and personal property in the city of Revere (Senate, No. 1986) [Local Approval Received]; and

Revere,
reevaluation.

Designating a certain roadway in the Veterans' Memorial cemetery in the town of Winchendon (Senate, No. 2126); and

Winchendon,
cemetery.

House bills

Requiring immunization of certain students (House, No. 74);

Students.

Relative to the operations and governance of credit unions (House, No. 484);

Credit
unions.

Further regulating certain consumer products pricing practices (House, No. 490);

Pricing.

Relative to consumer and merchant protection (House, No. 492);

Consumers.

Pertaining to fire fighter safety (House, No. 599);

Fire fighters.

Pertaining to firefighter injuries (House, No. 1903);

ri

Relative to the Greater Lawrence Sanitary District (House, No. 2108);

Lawrence.

Establishing a retirement benefit for employees of the Massachusetts Port Authority (House, No. 2149);

Port
Authority.

Relative to notification requirements in foreclosures (House, No. 2733);

Foreclosures.

Relative to smoke detector responsibility clarification (House, No. 3391);

Smoke
detectors.

Authorizing the town of Wellesley to establish a post employment health insurance trust fund (House, No. 3869) [Local Approval Received];

Wellesley,
retirees.

Exempting public works positions in the town of Dedham from the civil service law (House, No. 4093) [Local Approval Received];

Dedham,
public works.

Providing for recall elections in the town of Groveland (House, No. 4171) [Local Approval Received];

Groveland.

Authorizing the town of Rockport to borrow a certain amount of money (House, No. 4281) [Local Approval Received];

Rockport.

Establishing a sick leave bank for Christopher Bailey an employee of the Department of Correction (House, No. 4323);

Christopher
Bailey.

Establishing a sick leave bank for James Flamer, an employee of the Department of Mental Retardation (House, No. 4324);

James
Flamer.

Relative to the boundary line between the towns of Groton and Pepperell (House, No. 4334);

Groton and
Pepperell.

Cystic fibrosis.	To allow students with cystic fibrosis to self administer enzyme supplements (House, No. 4409);
Insurance companies.	Relative to the investment laws of life insurance companies (House, No. 4413);
Dangerous buildings.	Relative to dangerous buildings and building floor plans (House, No. 4417);
Day care providers.	Relative to licensing authorities for day care providers and day care providers notifying their local fire department (House, No. 4418); and
Unit pricing.	Pertaining to unit pricing (House, No. 4463);
	Severally placed in the Orders of the Day for the next sitting for a second reading.
School-to-work programs.	By Mr. Rodrigues of Westport, for the committee on Commerce and Labor, ought NOT to pass, on the petition (accompanied by bill, House, No. 1995) of the Associated Industries of Massachusetts, Robert M. Koczera and other members of the General Court relative to workers' compensation for students participating in school-to-work programs.
Gift certificates.	By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3294) of David Paul Linsky and other members of the General Court relative to the issuance and redemption of gift certificates.
Insurance commissioner, election.	By Mr. Mariano of Quincy, for the committee on Insurance, ought NOT to pass, on the petition (accompanied by bill, House, No. 565) of Kevin J. Murphy, Thomas A. Golden, Jr., Steven C. Panagiotakos and David M. Nangle for legislation to establish the office of Commissioner of Insurance as an elected position.
Life insurance, interest.	By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2450) of Geoffrey D. Hall, Steven C. Panagiotakos and another relative to the payment of interest on life insurance policies.
Motorcycles, reduced tolls.	By Mr. Wagner of Chicopee, for the committee on Transportation, ought NOT to pass, on the petition (accompanied by bill, House, No. 289) of Demetrius J. Atsalis that the Port Authority and the Turnpike Authority be directed to reduce tolls for motorcycles for the use of facilities of said authorities.
Motorcycles, public road access.	By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 290) of Demetrius J. Atsalis that cities and towns be prohibited from adopting rules or regulations banning the use of motorcycles on public ways.
Private ways, conversion.	By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1041) of James B. Leary, Robert Spellane, Harriette L. Chandler, John J. Binienda and Vincent A. Pedone relative to the use of allocations from the Highway Fund by cities and towns for the conversion of private ways to public ways.
MBTA, surface noise.	By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2187) of Christopher G. Fallon, Richard R. Tisei and Paul J. Donato for legislation to require that the Massachusetts Bay Transportation Authority measure sound pressure levels of surface level service areas.
MBTA, rails.	By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2188) of

Christopher G. Fallon, Richard R. Tisei and Paul J. Donato relative to requiring the Massachusetts Bay Transportation Authority to periodically test and replace rails and rail beds.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2191) of Alice K. Wolf for legislation to extend the hours of service of the Massachusetts Bay Transportation Authority.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2556) of Paul C. Casey, Paul C. Demakis, Carol A. Donovan, Richard R. Tisei and Kathi-Anne Reinstein for an investigation by a special commission (including members of the General Court) relative to crosswalks in the Commonwealth.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2557) of Gloria L. Fox and other members of the General Court relative to the establishment of a program to assist certain small businesses in areas affected by transportation enhancement activities of the Massachusetts Bay Transportation Authority.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2558) of Patricia D. Jehlen, Anne M. Paulsen, Paul C. Demakis, Timothy J. Toomey, Jr. and J. James Marzilli, Jr., relative to the posting of signs containing certain information at forks or intersections.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2722) of Michael Sheehan relative to regulating the operation of the Fore River Bridge in the town of Weymouth.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2909) of Kay Khan, Cynthia S. Creem and Ruth B. Balser for the expenditure of funds by the Massachusetts Bay Transportation Authority for the improvement of certain commuter rail stations located in the city of Newton.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2911) of Vincent A. Pedone relative to the definition of buses.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3474) of David Paul Linsky and other members of the General Court relative to freezing certain toll rates and providing funding for certain transportation projects.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3622) of Christopher P. Asselin that the Highway Department be directed to repave a certain section of Route 20A in the city of Springfield.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3712) of Garrett J. Bradley for legislation to restrict parking fees at the commuter boat lot in the town of Hingham by the Massachusetts Bay Transportation Authority.

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

MBTA, service times.

Crosswalks.

MBTA, small business assistance.

Intersections, information signs.

Weymouth, Fore River Bridge.

Newton, commuter rail stations.

Buses, definition.

Toll rates, freeze.

Springfield, Route 20A.

Hingham, commuter boat parking.

Mr. Kujawski of Webster, for said committee, reported that the matters be scheduled for consideration by the House; and, under said rule, they were placed in the Orders of the Day for the next sitting, the question, in each instance, being on acceptance.

Engrossed Bill.

Bill
enacted.

The engrossed Bill relative to the Dighton Water District (see House, No. 387) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

Third
reading
bill.

The Senate Bill relative to summer special police officers in the town of Nantucket (Senate, No. 1168) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

Third
reading
bills.

House bills
Relative to restrictive covenants (House, No. 3532) (its title having been changed by the committee on Bills in the Third Reading); and
Relative to the appointment of public safety officers (House, No. 4218);
Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Order.

Next
sitting.

On motion of Mr. Finneran of Boston,—
Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

At a quarter after eleven o'clock A.M., on motion of Mr. Hynes of Marshfield (Mrs. Walrath of Stow being in the Chair) the House adjourned, to meet tomorrow at eleven o'clock A.M.